

Appl. No. : 10/563,547
Filed : June 12, 2006

REMARKS

By this paper, the Applicant has amended Claims 1, 9 and 10-14 and canceled Claim 8. Thus, Claims 1-7 and 9-14 remain pending and are presented for further examination.

I. Discussion of Claim Rejections Under 35 U.S.C. § 102(b)

In paragraph 5 of the Office action, the Examiner rejected Claims 1, and 5-13 under 35 U.S.C. § 102(b) as being anticipated by WO 02/24014 A1 to Evans. In rejecting Claims 1 and 5-13, the Examiner stated that “Evans discloses all the features of the Claims.” O.A. at page 3.

A. The Law of Anticipation

Anticipation under Section 102 can be found only if a reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775 (Fed. Cir. 1985). More particularly, a finding of anticipation requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). “To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim.” *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970). The Applicant submits that, in light of the amendments to the claims, Evans fails to teach or suggest all of the limitations of Claim 1, as discussed below.

B. Discussion of Distinctions of the Claims in View of Evans (WO 02/24014 A1)

In supporting the rejection of the claims, the Examiner referred to Evans’s Figure 3 and page 4, line 22-page 6, line 31. The Applicant has amended Claim 1 to more clearly define the subject matter of the invention. Particularly, Claim 1 has been amended to recite that the limb protection device comprises a sealed enclosure with at least one sealed cuff. Support for the amended Claim 1 can be found at least at page 6, lines 25-31 of the present application. The Applicant submits that Evans fails to teach or suggest all of the limitations of Claim 1, as amended.

Evans describes a limb protection device including a sleeve and one or two cuffs at the ends. Evans discloses that “typically the cuff portion has a diameter less than the arm of the

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user.” (Evans at page 4, lines 34-35). Nowhere does Evans disclose that the cuffs are sealed. On the other hand, Claim 1 recites that the limb protection device comprises a sealed enclosure and at least one sealed cuff. The instant application teaches that, in one embodiment, the device may be manufactured in sterile conditions and both ends may be sealed, such that the interior of the device remains in a sterile condition until use (Evans at page 6, lines 25-28). Evans does not teach or suggest a limb protection device comprising a sealed enclosure, as recited in Claim 1. Thus, the Applicant respectfully submits that Evans does not anticipate Claim 1, and Claim 1 is therefore allowable. Further, since each of Claims 2-7 and 9-14 depends either directly or indirectly on Claim 1, the Applicant submits that those claims are also allowable.

C. Discussion of Distinctions of the Claims in View of Warner (U.S. 6,276,364)

In paragraph 6 of the Office action, the Examiner rejected Claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by U.S. 6,276,364 to Warner. In supporting the rejections, the Examiner referred to Warner’s Figure 6 including sleeve 10 including “integrally molded cuffs positioned at the ends of the sleeve and semi-circular indentations (13a, 15a).” The Examiner also referred to Warner’s col. 3, line 37 to col. 5, line 30 which “discloses the specifically claimed features recited in claims 1-4.” The Applicant submits that Warner fails to teach or suggest all of the limitations of Claim 1, as amended.

The Applicant submits that all the sleeves disclosed or contemplated by Warner include at least one open ended cuff and not a sealed cuff as recited in Claim 1. For example, Warner discloses that “In the manufacturing of the sleeve the mold is such that the main body is molded with an *open end* that fits over the mold and the opposite end 20 may be closed” (Warner at column 5, lines 22-24). Further, Claim 6 of Warner recites “wherein said first *or* second end is closed” and none of the claims recites that both ends of the sleeve are closed. The Applicant submits that Warner does not teach or suggest a limb protection device comprising a sealed enclosure, as recited in Claim 1. Thus, the Applicant respectfully submits that Warner does not anticipate Claim 1, and Claim 1 is therefore allowable. Further, since each of Claims 2-7 and 9-14 depends either directly or indirectly on Claim 1, the Applicant submits that those claims are also allowable.

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II. CONCLUSION

Applicant has endeavored to address all of the Examiner's concerns as expressed in the Office Action. Accordingly, amendments to the claims, the reasons therefore, and arguments in support of patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above remarks are made in order to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the clarity of the claims to particularly and distinctly point out the invention to those of skill in the art. Finally, Applicant submits that the claim limitations above represent only illustrative distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and, particularly, that all claims be allowed. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully invited to call the undersigned.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

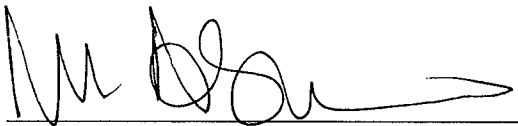
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Mark M. Abumeri
Registration No. 43,458
Attorney of Record
Customer No. 20995
(619) 235-8550

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080807